

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
LOS ANGELES REGION**

ORDER NO. R4-2005-XXXX

**CONDITIONAL WAIVER OF WASTE DISCHARGE REQUIREMENTS
FOR DISCHARGES FROM IRRIGATED LANDS
WITHIN THE LOS ANGELES REGION**

The California Regional Water Quality Control Board, Los Angeles Region (Regional Board) finds:

1. The Los Angeles Region has approximately 263,000 acres of cropland under irrigation and approximately 4000 operations that are, or may be, discharging waste from irrigated lands to waters of the State.
2. “Waters of the State” means any surface water or groundwater, including saline waters, within the boundaries of the state.
3. “Irrigated lands” means lands where water is applied for producing crops and, for the purpose of this Order, includes, but is not limited to, land planted for row, vineyard, field and tree crops as well as commercial nurseries, nursery stock production, and greenhouse operations with permeable floors that do not currently discharge under waste discharge requirements, including Municipal Separate Storm Sewer System (MS4) or other National Pollutant Discharge Elimination System (NPDES) permits.
4. “Discharges from irrigated lands” include surface discharges (also known as irrigation return flows or tailwater), subsurface discharges through drainage systems that lower the water table below irrigated lands (also known as tile drains), discharges to groundwater, and storm water runoff flowing from irrigated lands. These discharges can contain wastes that could affect the quality of waters of the State.
5. “Benchmark” means a requirement established by the Regional Board Basin Plan (including discharge prohibitions and applicable narrative or numeric water quality objectives), criteria established by the United States Environmental Protection Agency (including the California Toxics Rule and National Toxics Rule) to interpret or implement narrative water quality objectives, and load allocations established pursuant to the total maximum daily load (TMDL) program (whether established in the Basin Plan or other lawful means). Common benchmarks for discharges from irrigated lands are identified in Appendices 1, 2, and 3 of this Order.

T
E
N
T
A
T
I
V
E

6. Regional water quality data from the Surface Water Ambient Monitoring Program (SWAMP), the Calleguas Watershed Management Plan Surface Water Monitoring Program, the Stormwater Monitoring Program of the Ventura County Watershed Protection Agency, National Pollutant Waste Discharge Elimination System Receiving Water Monitoring Reports and other monitoring programs, identify waters of the State with water quality impairments that appear attributable to or influenced by agriculture in areas of irrigated lands.
7. The 2002 303(d) list of impaired water bodies in the Los Angeles Region identifies agriculture as a potential source of constituents that impair beneficial uses of some waters within the Region and threaten the quality of the waters of the State.
8. For the reasons set forth below, the Regional Board concludes that it is in the public interest to establish a Conditional Waiver for discharges from irrigated lands. Without appropriate management practices, discharges from irrigated lands could pose a significant threat to water quality. The conditions established in this Order will help ensure that discharges from irrigated lands do not impair beneficial uses of waters of the State within the Los Angeles Region.
9. As authorized by Water Code section 13269, this Order adopts a conditional waiver of waste discharge requirements for discharges from irrigated lands that requires persons who obtain coverage under the waiver to, in part, prepare and implement technical reports to monitor surface water; evaluate, monitor and implement a Water Quality Monitoring Plan, if necessary, that results in attainment of benchmarks based on water quality objectives; and, if directed by the Regional Board, implement additional measures to protect the quality of waters of the State within the Los Angeles Region.

LEGAL AND REGULATORY CONSIDERATIONS

10. Water Code section 13260(a)(1) requires that any person discharging wastes or proposing to discharge wastes within the Regional Board's jurisdiction which could affect the quality of the waters of the State, shall file a Report of Waste Discharge (ROWD) with the Regional Board. The requirement to submit an ROWD may be waived or limited by an Order issued under Water Code section 13269.
11. Water Code section 13269 requires that waivers must (i) be consistent with any applicable water quality control plans (basin plans); (ii) be "in the public interest;" (iii) contain conditions; (iv) expire after a five year term; and (v) include monitoring provisions. In addition, the 2003 amendments to the Water Code authorized the State Board to adopt annual fees for recipients of waivers. Water Code section 13269(e) states that the regional water boards shall require compliance with the conditions of waivers.

12. Water Code section 13269(a)(2) requires that conditional waivers be accompanied by monitoring requirements. All requirements for technical and monitoring reports are established pursuant to Water Code section 13267. These reports are necessary to evaluate compliance with the terms and conditions of the Conditional Waiver of Waste Discharge Requirements (Conditional Waiver), to verify the adequacy and effectiveness of the waiver's conditions, to evaluate the effectiveness of any measures or actions taken pursuant to this Order (including water quality management plans), and to evaluate whether additional regulatory programs or enforcement actions are warranted.
13. Failure to submit a report in accordance with schedules established by this Order, Monitoring and Reporting Programs (MRPs) Nos. CI-8835 and CI-8836, or an alternative individual or group monitoring plan approved by the Regional Board Executive Officer (Executive Officer), or failure to submit a report of sufficient technical quality to be acceptable to the Executive Officer, may subject a Discharger to enforcement action pursuant to section 13268 of the Water Code.
14. The Regional Board adopted a Revised Water Quality Control Plan (Basin Plan) for the Los Angeles Region on June 13, 1994, which designates beneficial uses, establishes water quality objectives, contains implementation plans and policies for protecting waters of the region, and references the plans and policies adopted by the State Board. Some water quality criteria established under the Clean Water Act may also serve as water quality objectives or may implement water quality objectives in the Basin Plan. The Basin Plan recognizes that agricultural activities can generate pollutants such as sediment, pesticides, nutrients, and oxygen-demanding organic matter that, upon discharge to a receiving water, can degrade water quality and impair beneficial uses. Section G. Water Quality Benchmarks and Appendices 1, 2, and 3 of this Order identify specific water quality objectives which will be used to assess the effect of these discharges on water quality and to determine if management practices implemented to comply with the terms and conditions of the Conditional Waiver are effective.
15. The Basin Plan designates beneficial uses of, and establishes water quality objectives for, groundwater and surface water within the Los Angeles Region. Beneficial uses designated for groundwater and surface water include, among others: municipal supply, groundwater recharge, industrial service supply, fresh water replenishment, marine and wetland habitats, estuarine and wildlife habitats, commercial and sport fishing, water contact and non-contact recreation, shellfish harvesting, and agricultural supply.
16. The intent of this Conditional Waiver is to attain water quality objectives in receiving waters by regulating discharges from irrigated lands within the Los Angeles Region to ensure that such discharges are not causing or contributing to exceedances of applicable water quality standards. This Conditional Waiver uses benchmarks to identify areas where management practices need to be upgraded to

T
E
N
T
A
T
I
V
E

- attain water quality objectives in receiving waters. This Conditional Waiver will document the extent of nonattainment and require actions to be taken toward attainment of water quality objectives. Subsequent conditional waivers or other regulatory mechanisms for discharges from irrigated lands may include effluent limitations or comparable requirements to ensure attainment of water quality objectives.
17. The State Board has adopted the “Policy for Implementation and Enforcement of the Nonpoint Source Pollution Control Program” (Nonpoint Source Program) dated May 2004. The purpose of the Nonpoint Source Program is to improve the State's ability to effectively manage nonpoint source pollution and conform to the requirements of the federal Clean Water Act and the federal Coastal Zone Management Act. The plan describes three options for addressing nonpoint source pollution (waste discharge requirements, conditional waivers of waste discharge requirements, and discharge prohibitions) and elements of nonpoint source control implementation programs, including antidegradation requirements, management practices, time schedules, feedback to Regional Board to evaluate the program progress and appropriate Board actions to correct program deficiencies, if appropriate.
18. This Order is consistent with the provisions of the Board Resolution No. 68-16 (Anti-degradation Policy). Regional Boards, in regulating the discharge of waste, must maintain high quality waters of the State unless it is demonstrated that any degradation will be consistent with maximum benefit to the people of the State, will not unreasonably affect beneficial uses, and will not result in water quality worse than that described in a regional board's policies. This Order, appendices, and attachments require a discharger who obtains coverage under the Conditional Waiver to comply with applicable water quality objectives, protect beneficial uses, and prevent nuisance by implementing monitoring and reporting programs, and by identifying, implementing and evaluating management practices to attain water quality objectives where water quality objectives are exceeded. Further, this Order is likely to improve the quality of existing waters by establishing conditions and including monitoring designed to demonstrate compliance with the conditions.
19. The United States Environmental Protection Agency (U.S. EPA) adopted the National Toxics Rule (NTR) on 5 February 1993 and the California Toxics Rule (CTR) on 18 May 2000, which was modified on 13 February 2001. These Rules contain water quality criteria which, when combined with beneficial use designations in the Basin Plans, constitute enforceable water quality standards for priority toxic pollutants in California surface waters. The NTR and CTR reflect numeric water quality criteria (i.e., objectives) to implement the narrative toxicity objective in the Basin Plan, such that compliance with the NTR and CTR is consistent with the Basin Plan. The State Board adopted the Policy for Implementation of Toxics Standards for Inland Surface Waters, Enclosed Bays, and Estuaries of California (known as the State Implementation Plan or SIP), which

T
E
N
T
A
T
I
V
E

contains guidance on implementation of the NTR and the CTR. The SIP states that implementation of the National Toxics Rule and the California Toxics Rule for agricultural nonpoint sources of pollution shall be consistent with the State's Nonpoint Source Management Plan.

20. In California, the Department of Pesticide Regulations (DPR), State Board and the regional water boards have mandates and authorities bearing on pesticides and water quality. In order to promote cooperation to protect water quality from the adverse effects of pesticides, DPR and the State Board signed a Management Agency Agreement (MAA) in 1997. The MAA, and its companion document, "The California Pesticide Management Plan for Water Quality," strives to coordinate interaction, facilitate communication, promote problem solving, and ultimately assure the protection of water quality. The intent of this Order is to support and implement the MAA.

RATIONALE FOR CONDITIONAL WAIVER OF WASTE DISCHARGE REQUIREMENTS FOR DISCHARGES FROM IRRIGATED LANDS

21. Discharges from irrigated lands can and/or do contain wastes, as defined in Water Code section 13050 that could affect the waters of the State. The discharge of tailwater, wastewater and/or stormwater from irrigated lands occurs to both surface and groundwater. Such wastes include earthen materials, including soil, silt, sand, clay, and rock; inorganic materials (such as metals, salts, boron, selenium, potassium, nitrogen, etc.); organic materials (such as organic pesticides) that enter or threaten to enter into waters of the State. Examples of waste not qualifying for conditional discharge under this Conditional Waiver include hazardous and human wastes.
22. The intent of this Order is to adopt a Conditional Waiver for discharge from irrigated lands.
23. The goal of this Conditional Waiver is to improve and protect water quality and attain water quality objectives in waters of the State by providing a program to manage discharges from irrigated lands that cause or contribute to conditions of pollution or nuisance as defined in Section 13050 of the Water Code or that cause or contribute to exceedances of an applicable water quality objectives (whether established by the Regional Board, State Board, or established by U.S. EPA as an applicable state criteria).
24. Irrigated lands dischargers shall comply with the conditions of this Conditional Waiver by submitting a Notice of Intent to comply with the waiver or by participating in a discharger group that submits a Notice of Intent to comply with the waiver, by performing individual or group monitoring, by submitting annual monitoring reports, and by developing and implementing a Water Quality Management Plan (WQMP) if necessary, to reduce pollutant loading to surface

T
E
N
T
A
T
I
V
E

- waters. Monitoring requirements shall be designed to support the development and implementation of the waiver program, including but not limited to, verifying the adequacy and effectiveness of the waiver's conditions. In establishing monitoring requirements, the Regional Board may consider the volume, duration, frequency, and constituents of the discharge; the extent and type of existing monitoring activities; the size of the project area; and other relevant factors (Water Code, section 13269(a)(2)). The WQMP is designed to (i) assess the impacts of waste discharges from irrigated lands to surface waters through source identification; (ii) determine the degree of implementation of management practices to reduce discharge of specific wastes that impact water quality; (iii) determine the effectiveness of management practices and strategies to reduce discharges of waste that impact water quality; (iv) determine concentration and load of waste in these discharges to surface waters; and (v) evaluate compliance with existing narrative and numeric water quality objectives to determine if additional implementation of management practices is necessary to improve and/or protect water quality and (vi) construct or implement management practices to reduce waste loadings to the waters of the State.
25. On-going studies regarding the effects of irrigated land discharges on groundwater quality funded by the State Board (Proposition 13 - Watershed Protection Grant Program and PRISM Project # 0039 Modifying Agricultural Pesticide Practices to Reduce Loading in Calleguas Creek with United Water Conservation District) will be completed in 2007. Upon completion of the studies, staff will assess the loading to groundwater from existing irrigation practices and the Executive Officer may modify monitoring programs to include groundwater monitoring in areas with potential groundwater impacts.
26. It is expected that some Dischargers will not immediately achieve full compliance with all listed benchmarks as defined by the Conditional Waiver. When the required monitoring indicates that a benchmark can not be obtained immediately, an individual discharger or discharger group shall submit a Water Quality Management Plan (WQMP) for approval by the Executive Officer that includes concrete steps with specific milestones that work toward attainment of water quality objectives through the use of best management practices. Examples of best management practice resources are included in Appendix 10.
27. The conditional waiver shall require monitoring to determine compliance with the conditions of the waiver and the effectiveness of management practices used in a WQMP. Monitoring shall be required pursuant to Water Code section 13267(b), which provides that: "In conducting an investigation specified in subdivision (a), the regional board may require that any person who has discharged, discharges, or is suspected of having discharged or discharging, or who proposes to discharge waste within its region, or any citizen or domiciliary, or political agency or entity of this state who has discharged, discharges, or is suspected of having discharged or discharging, or who proposes to discharge, waste outside of its region that could

T
E
N
T
A
T
I
V
E

- affect the quality of waters within its region shall furnish, under penalty of perjury, technical or monitoring program reports which the regional board requires. The burden, including costs, of these reports shall bear a reasonable relationship to the need for the report and the benefits to be obtained from the reports. In requiring those reports, the regional board shall provide the person with a written explanation with regard to the need for the reports, and shall identify the evidence that supports requiring that person to provide the reports.”
28. The monitoring reports required by this Conditional Waiver are needed to evaluate loadings of pollutants such as sediment, pesticides, nutrients, and oxygen-demanding organic materials to waters of the State from agricultural activities. This evaluation is necessary to maintain high water quality in the Los Angeles Region and restore impaired waters to their full beneficial uses. Studies including, but not limited to, TMDL studies for nutrients in the Los Angeles River, Calleguas Creek, and the Santa Clara River, and for pesticides and toxicity in Calleguas Creek demonstrate the need for the monitoring reports required by the Conditional Waiver. Staff analysis shows that the monitoring costs constitute a small portion of agricultural production costs, are comparable to the monitoring costs for conditional waivers in other regions, and bear a reasonable relationship to the need for these reports. Monitoring programs shall apply to individuals or groups as indicated in the Monitoring and Reporting Programs (MRPs) Nos. CI-8835 and CI-8836.
29. The MRPs required by this Order satisfy section 13269 of the California Water Code. Under MRPs Nos. CI-8835 and CI-8836, an Individual Discharger and/or Discharger Group subject to this Order is required to monitor locations where discharges from irrigated lands enter waters of the State, as approved by the Executive Officer. If results from the monitoring programs indicate that applicable benchmarks are exceeded, the individual and/or group will be required to submit a WQMP, as described in the MRPs Nos. CI-8835 and CI-8836, Monitoring and Reporting Programs for Individual Dischargers and Discharger Groups, respectively. Additionally, if results from the group monitoring program indicate that benchmarks are exceeded within an area monitored by a group, the group will submit a WQMP for approval by the Executive Officer. The WQMP may require additional monitoring and improved management measures and best management practices.
30. The adoption of this Order and the Conditional Waiver is in the public interest because, in part, (1) it was adopted in compliance with Water Code sections 13260, 13263 and 13269 and other applicable law, (2) it includes conditions that are intended to reduce and prevent pollution and nuisance and protect the beneficial uses of the waters of the State, (3) it contains more specific and more stringent conditions for protection of water quality compared to the Regional Board’s current practice of regulating discharges from irrigated lands under the first tier of the Nonpoint Source Policy (4) it implements the middle tier approach of the State Board’s Non-Point Source Policy (5) it provides for an efficient and effective use of

T
E
N
T
A
T
I
V
E

limited staff resources given the magnitude and number of waste discharges from irrigated lands, and (6) it provides reasonable flexibility for the Dischargers who seek coverage under the Waiver by providing them with the option of complying with the Water Code through participation in Discharger Groups or as individuals.

31. At this time, it is appropriate to adopt a waiver of ROWDs and WDRs for this category of discharge because: the discharges have the same or similar waste in the same or similar operations, use the same or similar treatment methods and management practices (i.e., source control, reduced use, holding times, cover crops), and the Regional Board has limited facility specific information, and limited water quality data on facility specific discharges. In addition, it is appropriate to regulate this category of agricultural facilities under waivers rather than under individual WDRs or general WDRs in order to simplify and streamline the regulatory process while additional facility and water quality information is collected over the term of this Waiver.
32. It is not appropriate at this time to adopt individual or general waste discharge requirements to regulate discharges of waste from irrigated lands because there are more than 4,000 individual dischargers who discharge waste from irrigated lands and it is not feasible, given current staff resources, to adopt WDRs in a reasonable time. Although there is information that discharges of waste from irrigated lands have impaired waters of the State, information concerning the specific locations of impairments, specific causes, specific types of waste and specific management practices that mitigate impairments and improve and protect water quality is not generally available. The conditions of the Waiver will result in the development of new information that may provide a more reasonable basis for the adoption of individual or general WDRs, where necessary, in the future. Coverage under the Conditional Waiver may be terminated at any time and the Executive Officer may require any person to submit a ROWD and seek individual WDRs.
33. Where other Federal, State, and Local agencies have a regulatory role for activities or pollution addressed by the conditions of the Waiver, the Regional Board will work cooperatively with the other Agencies in order to effectively regulate discharges from irrigated lands.
34. The Regional Board may consider adoption of general waste discharge requirements to regulate discharges from irrigated lands that do not meet the requirements for participation in the Conditional Wavier as described herein.

SCOPE AND DESCRIPTION OF CONDITIONAL WAIVER OF WASTE DISCHARGE REQUIREMENTS FOR DISCHARGES FROM IRRIGATED LANDS

35. This Conditional Waiver applies to discharges from irrigated lands to surface waters, which are waters of the State.

T
E
N
T
A
T
I
V
E

36. This Conditional Waiver does not apply to discharges that are subject to the National Discharge Elimination System (NPDES) permit program under the Clean Water Act. This Conditional Waiver does not apply to discharges of waste that are regulated under another Conditional Waiver, or regulated by individual or general waste discharge requirements. This Order and Conditional Waiver do not preempt or supersede the authority of municipalities, flood control agencies, agricultural commissioners, pesticide regulators or other agencies to prohibit, restrict, or control discharges of waste subject to their jurisdiction.
37. This Conditional Waiver does not apply to confined animal operations, parks, golf courses, cemeteries, and recreational fields.
38. This Conditional Waiver is consistent with any applicable State or regional water quality control plan, including, but not limited to, the Basin Plan (including objectives implemented through the NTR and CTR), and is in the interest of the public.
39. This action to waive the requirement to submit ROWDs and to waive the issuance of waste discharge requirements for discharges from irrigated lands: (a) is conditional, (b) may be terminated at any time, (c) does not permit an illegal activity, (d) does not preclude the need for permits that may be required by other State or local government agencies, and (e) does not preclude the Regional Board or Executive Officer from taking other actions authorized by the Water Code, including requiring additional technical reports or administering enforcement remedies (including civil liability).
40. Regional Board staff will report to the Regional Board on an annual basis regarding the status of the Conditional Waiver. The Regional Board will evaluate whether the Conditional Waiver is adequate to improve and/or protect water quality and its beneficial uses. The evaluation will characterize the discharges covered by this conditional waiver, evaluate the effect of those discharges on waters of the State, and assess the effectiveness of any management practices that were implemented to address impairments of waters of the State.
41. The Regional Board does not expect that water quality objectives will be achieved in all waters of the State in the Los Angeles Region within the term of this Order. The conditions of this Waiver, however, will require actions that will lead to achieving water quality objectives. This Conditional Waiver uses benchmarks to identify areas where management practices need to be upgraded to attain water quality objectives in receiving waters. To satisfy the conditions of the Waiver, Group and Individual Dischargers must submit technical reports, conduct monitoring of surface waters, implement, evaluate, and refine management practices to improve the effectiveness of management practices, protect against pollution and nuisance, and protect the waters of the State.

T
E
N
T
A
T
I
V
E

42. A Discharger Group or an individual Discharger may apply for coverage under the Waiver as specified in the appropriate Waiver. The Discharger Group or individual Discharger must submit a complete Notice of Intent (NOI), Appendices 5 or 6, to comply with the conditions of the Waiver. Upon submittal of a complete and approved NOI, the individual Discharger or Discharger Group will be considered covered under the Waiver and the Executive Officer will issue a Notice of Applicability (NOA).
43. Dischargers shall develop a monitoring and reporting program (MRP) to assess the impacts of wastes on the waters of the State from discharges from irrigated lands, and where necessary, to assess the sources of wastes and track progress in reducing the amount of waste discharged that affects the quality of the waters of the State and its beneficial uses. Monitoring and reporting requirements are described in Monitoring and Reporting Programs (MRPs) CI-8835 and CI-8836. All dischargers subject to the requirements of the Conditional Waiver will be required to meet the monitoring requirements for an Individual Discharger in MRP No. CI-8835, or to participate in a Discharger Group monitoring program under MRP No. CI-8836.
44. A Discharger Group is any group of dischargers and/or organizations that forms to comply with this Conditional Waiver. Discharger Groups can be, but are not limited to, organizations formed on a geographic basis or formed with other factors in common, such as commodities.
45. The formation, operation, and funding of discharger groups are the responsibilities of the local entities and/or individual dischargers who are represented by the discharger group.
46. The Regional Board directs its Executive Officer to provide regular updates to the Regional Board regarding the effectiveness of the Conditional Waiver to regulate the targeted discharges. These regular updates may include Executive Officer's Reports, memorandums, staff reports, workshops, and agenda items.
47. The Regional Board may review this Conditional Waiver at any time and may modify or terminate the waiver for Individual Dischargers, members of a Discharger Group, Discharger Groups, or in its entirety, as appropriate.
48. Pursuant to Water Code section 13263(g), discharge is a privilege, not a right, and adoption of this Order establishing a Conditional Waiver, and the receipt of a Notice of Applicability (NOA) from the Executive Officer, does not create a vested right to continue the discharge.
49. The Regional Board has notified interested agencies and persons of its intent to adopt a Conditional Waiver as described in this Order, and has provided them with an opportunity to submit written comments and recommendations regarding the

T
E
N
T
A
T
I
V
E

tentative requirements. This notice complied with the requirements of Government Code section 11125.

50. The Regional Board, in a public workshop and public meeting, heard and considered all comments pertaining to the discharges to be regulated under this Order and to the tentative requirements of the Conditional Waiver.
51. Pursuant to Water Code section 13320, any aggrieved party may seek review of this Order by filing a petition with the State Board. A petition must be sent to the State Water Resources Control Board, P.O. Box 100, Sacramento, California 95812, within 30 days of adoption of the Order.
52. As specified in California Code of Regulations, title 23, section 2511(a), discharges covered by the waiver established by this Order are exempt from the provisions of title 23 California Code of Regulations, Division. 3, Chapter 15. Discharge of Hazardous Waste to Land.

CALIFORNIA ENVIRONMENTAL QUALITY ACT

53. The Regional Board is the lead agency for this project under the California Environmental Quality Act (Public Resources Code section 21000 et seq.) and has conducted an Initial Study in accordance with section 15063 of the “State CEQA Guidelines” beginning at California Code of Regulations, title 14, section 15000 et seq. Based on the Initial Study, the Regional Board staff prepared a Negative Declaration. Regional Board staff found that the adoption of a waiver for discharge from irrigated lands, as mitigated, will not have a significant adverse effect on the environment. The action to adopt a conditional waiver is intended to protect, maintain, and improve water quality. The waiver sets forth conditions that will require dischargers to implement management practices to protect water quality and to ensure through monitoring that such practices are effective and are improving water quality. The Regional Board is approving the Initial Study and adopting the Negative Declaration concurrently with its adoption of this Order, No. R4-2005-XXXX.

It is hereby ordered that: in order to meet the provisions contained in Division 7 of the Water Code and regulations adopted thereunder, the Regional Board hereby waives waste discharge requirements for discharges of wastes from irrigated lands provided that the discharger satisfies all conditions and requirements of eligibility, application, authorization, discharge prohibitions, general provisions, specific conditions, benchmarks, monitoring and reporting requirements, and compliance and enforcement, as listed below and in Appendices 1, 2 and 3.

T
E
N
T
A
T
I
V
E

A. Eligibility

1. Existing and future discharges of irrigation return flows or stormwater leaving irrigated land through tail water, irrigation, runoff, tile drains or storm runoff to waters of the State are potentially eligible for coverage under this Order.
2. Dischargers eligible under this Order bear the responsibility of complying with the provisions and conditions contained in this Order and others related thereto.
3. Dischargers shall submit a Notice of Intent (as detailed below for Individual Dischargers and Discharger Groups and as described in Appendix 5 for Individual Dischargers and in Appendix 6 for Discharger Groups) in order to comply with the Terms of this Conditional Waiver, Order No. R4-2005-XXXX.
4. Dischargers shall submit a Monitoring and Reporting Program (MRP) Plan that proposes monitoring locations, method detection limits, and practical quantitation limits for the Executive Officer approval. The MRP Plan shall include a topographic map showing drainage patterns, discharges, crop locations, cultivation and pesticide/fertilizer/sediment management practices which may impact the water quality, and sampling locations. The purpose of the MRP Plan is to assess the impacts of wastes on waters of the State from discharges from irrigated lands, and where necessary, to assess the sources of wastes and track progress in reducing the amount of waste discharged that affects the quality of the waters of the State and its beneficial uses. Dischargers shall submit a Quality Assurance Project Plan, including protocols for sample collection, standard analytical procedures, and laboratory certification.

Individual Dischargers

5. Individual Dischargers shall be responsible for filing a NOI that provides Individual Discharger Information, Billing Address, Site Information (including information to allow the Executive Officer to classify the Discharger as Typical or Low-Risk), Water Supply, Type of Discharge, Facility Information (including type and volume of crops, type, quantity and frequency of pesticide applications, irrigation schedule and management practices in place to mitigate waste loadings).
6. Individual Dischargers shall submit a Monitoring and Reporting Program Plan and a Quality Assurance Project Plan (QAPP), in accordance with Order R4-2005-XXXX for Executive Officer approval. The MRP Plan shall include a topographic map showing drainage patterns, discharges, crop locations, cultivation and pesticide/fertilizer/sediment management practices which may impact the water quality, and sampling locations. After the submittals are reviewed and approved by the Executive Officer, the Executive Officer will issue a Notice of Applicability (NOA). Within one year of issuance of the NOA, the discharger shall complete 8

T
E
N
T
A
T
I
V
E

hours of training on water quality management practices that control pollutant discharges.

7. One year after submittal of the NOI and annually thereafter, unless classified as a Low-Risk Discharger, the Individual Discharger will submit an annual monitoring report showing the results of the monitoring plan, evidence of participation in educational programs on reducing water quality impacts from agricultural practices and will submit a WQMP within six months of submittal of the annual monitoring report, if exceedances of benchmarks are indicated by the monitoring results. Guidelines for the preparation of the reports and for the monitoring plan are provided in the MRP for Individual Dischargers in MRP No. CI-8835. Information required in the WQMP is included in Appendix 8 of this Order.

Discharger Groups

8. Discharger Groups shall be responsible for filing a NOI that identifies the dischargers participating in the Group, Billing Address for the Group, Site Information for Group participants, (including information to allow the Executive Officer to classify the Discharger as Typical or Low-Risk), Water Supply for Group participants, Type of Discharge, Facility Information for Group Participants, (including type and volume of crops, type, quantity and frequency of pesticide applications, irrigation schedule and management practices in place to mitigate waste loadings).
9. The Group Discharger shall submit a MRP Plan, and a QAPP, in accordance with Order R4-2005-XXXX for Executive Officer approval. The MRP Plan shall include a topographic map showing drainage patterns, discharges, crop locations, cultivation and pesticide/fertilizer/sediment management practices which may impact the water quality, and sampling locations. After the submittals are reviewed and approved by the Executive Officer, the Executive Officer will issue a Notice of Applicability (NOA) to the Group. Within one year of receipt of the NOA all dischargers within the Discharger Group shall complete 8 hours of training on water quality management practices that control pollutant discharges.
10. One year after submittal of the NOI the Discharger Group shall submit an annual monitoring report showing the results of the monitoring, evidence of educational experience on water quality impacts for each individual participating in the Group program, and will submit a WQMP within six months of the submittal of the NOI, if necessary. Guidelines for the preparation of the reports and for the monitoring plan can be obtained from Regional Board staff and are discussed in the Monitoring and Reporting Programs, No CI-8836. Information required in the Water Quality Management Plan (WQMP) is included in Appendix 8 of this Order.

Individual and Group Discharges

T
E
N
T
A
T
I
V
E

11. To be covered under this Order, dischargers must meet the following criteria:

If the monitoring results show exceedance of the benchmarks in Section G and Appendices 1, 2 and 3 of this Order, the discharger shall:

- a) Submit, within six months following submittal of an annual monitoring report showing an exceedance of a benchmark, a WQMP to implement specific management measures and management practices to improve the discharge quality, including a date-specific time line to be approved by the Executive Officer.
 - b) Implement management measures in accordance with the approved WQMP and implement Best Management Practices to minimize pollutant loading to surface waters. Best Management Practices may include those recommended by the National Resources Conservation District, the University of California Cooperative Extension, or other management practices proposed by the discharger that minimize pollutant loading to waters of the State and meet the requirements of this Order as approved by the Executive Officer.
12. Discharges from Individual Dischargers and from Discharger Groups covered under this Order shall be ranked as Low-Risk or Typical by the Executive Officer based on the information submitted by the Individual Discharger or Group Discharger in accordance with part B of this Order and shall be subject to corresponding requirements.

The Executive Officer will review the NOI and consider, at a minimum, the factors as described in the MRPs Nos. CI-8835 and CI-8836 in order to classify Low-Risk dischargers.

Low-risk dischargers shall comply with all conditions of eligibility, application, authorization, discharge prohibitions, general provisions, specific conditions, benchmarks, monitoring and reporting requirements, and compliance and enforcement ability and comply with the requirements of Appendices 1, 2 and 3. The frequency of monitoring is established for the Low-Risk and Typical classifications, with less frequent sampling for the Low-Risk classification. Should monitoring data from Discharger Groups that contain a large number of Low-Risk dischargers in a particular area indicate continued attainment of applicable benchmarks after the first annual report, the Executive Officer may use his or her discretion to reduce the required frequency of monitoring.

13. If an Individual Discharger or individual participant in a Discharger Group wishes to terminate coverage under this Conditional Waiver, the Discharger shall submit a complete Notice of Termination (NOT), Appendix 7. Administrators of a

T
E
N
T
A
T
I
V
E

Discharger Group may also notify the Regional Board of an individual's failure to participate in the group efforts. The Discharger Group shall not be responsible or liable for individual compliance with the terms of the Conditional Waiver or the Water Code in general. The Discharger Group shall only be responsible for conveying information related to an individual's participation in the Group, and not for determining if the individual is in compliance with the terms of the Conditional Waiver. The Discharger Group shall provide at least 30 days notice to participants before informing the Regional Board of the individual's failure to participate, which may result in the Regional Board issuing a NOT to the participant. Termination from coverage will occur on the date specified in the NOT, unless otherwise specified. All discharges shall cease before the date of termination, and any discharges on or after that date shall be considered in violation of this Conditional Waiver, unless another Waiver or Waste Discharge Requirements permit regulates the discharge.

14. In the event that the Regional Board issues an individual permit with more specific requirements to a discharger, the applicability of this Order to that discharger is automatically terminated, except for enforcement purposes, on the effective date of the individual permit.

Table 1. Schedule for Discharger Tasks

Task	Responsible party	Contents	Due Date
Notice of Intent to Discharge (NOI), Discharger Report	Each Individual Discharger (or Discharger Group)	NOI, monitoring plan and QAPP (For Discharger Groups, the NOI must also include a Discharger Group Report providing information regarding participating Dischargers)	12 months after adoption of Conditional Waiver
Annual Monitoring Report	Typical Dischargers	Monitoring plan and results, laboratory documentation, data interpretation, education record,	12 months after submittal of NOI and annually thereafter
Water Quality Management Plan, if necessary	Typical Dischargers	If necessary, six months after the submittal of annual monitoring report	Six months after submittal of annual monitoring report if necessary, and annually thereafter, if necessary
Annual Monitoring Report	Low risk Dischargers	Monitoring plan and results, laboratory documentation, education record, confirmation	1 year and 3 years after submittal of NOI

Task	Responsible party	Contents	Due Date
		of compliance	

B. Application

1. For Individual Dischargers

Individual Dischargers eligible for coverage under this Order shall submit the following:

- a. Notice of Intent (Appendix 5) to comply with the requirements of the Conditional Waiver
- b. A site map that includes discharge points and sampling locations together with their GPS coordinates, and receiving waters near the site.
- c. A Monitoring and Reporting Plan, and a QAPP as described in the Monitoring and Reporting Program, No. CI-8835.
- d. Any additional information that the Executive Officer deems necessary to evaluate the discharge.
- e. An annual fee required by the State Board.

2. For Discharger Groups

Discharger Groups, on behalf of individual Dischargers, eligible for coverage under this Order shall submit the following:

- a. Notice of Intent (Appendix 6) to comply with the requirements in the Conditional Waiver. Additionally, Discharger Groups shall provide information for each individual Discharger (Group Participant), who has knowingly elected to be part of the Discharger Group, including: the owner/operator, farm assessor parcel number(s) (Section, Township and Range), closest surface water body, and type(s) of discharge.
- b. A site map that includes discharge points and sampling locations together with their GPS coordinates, and receiving waters near the site. The map shall clearly show the location of the properties relative to receiving waters, general topography and the proposed sampling locations.

T
E
N
T
A
T
I
V
E

- c. Discharger Group Monitoring and Reporting Program Plan including a Quality Assurance Project Plan (QAPP) as described in the Monitoring and Reporting Program, No. CI-8836.
- d. Any additional information that the Executive Officer deems necessary to evaluate the discharge.
- e. An annual fee required by the State Board.

3. Schedule

Existing Individual Dischargers or Discharger Groups seeking to discharge under this Conditional Waiver shall submit a NOI, MRP Plan, and QAPP 12 months after adoption of the Order. New dischargers shall file a complete Notice of Intent at least 45 days before commencement of the discharge.

C. Authorization

1. To be authorized to discharge under this Order, an Individual Discharger or Discharger Group must complete an application in accordance with the requirements of Appendices 5 or 6 of this Order and as described above.
2. Upon receipt of the application, the Executive Officer shall 1) determine the applicability of this Order to the Individual Discharger or individuals within a Discharger Group, 2) evaluate the reported risk level for the discharge (i.e. Low-Risk, Typical), 3) notify the Individual Discharger or Discharger Group that the discharge is or is not authorized under the terms and conditions of this Order, and 4) approve or modify the submitted monitoring and reporting program. For new discharges, the discharge shall not commence until receipt of the Executive Officer's NOA under this Conditional Waiver.

D. Discharge Prohibitions

1. Wastes discharged from irrigated lands shall be limited to agricultural wastewater only; no residential, municipal, industrial, hazardous or commercial wastes shall be purposefully discharged onto the agricultural property.
2. The discharge of wastes containing any substance in concentrations toxic to human, animal, plant, or aquatic life is prohibited.
3. The discharge of waste to land not owned or controlled by the discharger is prohibited.

T
E
N
T
A
T
I
V
E

4. The discharge of wastes from irrigated lands that is not authorized by this Conditional Waiver or other Order or Waiver authorized by the Regional Board is prohibited.

E. General Provisions

1. Dischargers covered under this Order shall comply with all applicable Basin Plan provisions, including any prohibitions and water quality objectives governing protection of receiving waters from nonpoint source discharges.
2. An Individual Discharger shall maintain, for inspection by Regional Board staff, the NOI, a monitoring plan, records of pesticide and fertilizer application and a WQMP, if monitoring results have documented receiving water quality which does not meet the requirements of the benchmarks. Participants in a Discharger Group shall maintain, for inspection by the Regional Board staff, proof of participation in a Discharger Group, contact information for the Discharger Group, individual pesticide and fertilizer application information as required by other regulatory programs, and a Discharger Group WQMP (if monitoring results document receiving water quality which does not meet a benchmark).
3. The discharger shall allow the Regional Board, or an authorized representative upon the presentation of credentials and other documents as may be required by law, to:
 - a. Upon reasonable notice, enter upon the discharger's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this Order. Consistent with Water Code section 13267(c), advance notice is not required in the event of an emergency affecting public health or safety,
 - b. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this Order,
 - c. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this Order, and
 - d. Sample or monitor at reasonable times, for the purposes of assuring compliance with this Order, or as otherwise authorized by the Water Code, any substances or parameters at any location (Water Code section 13267).
4. This Order does not relieve the discharger from responsibility to obtain other necessary local, State, and Federal permits to construct facilities necessary for compliance with this Order, nor does this Order prevent imposition of additional standards, requirements, or conditions by any other regulatory agency.

T
E
N
T
A
T
I
V
E

5. The discharger shall furnish, within a reasonable time not to exceed 30 days, any information the Regional Board may request to determine whether cause exists for modifying, revoking and reissuing, or terminating the discharger's coverage under this Order. The discharger shall also furnish to the Regional Board, upon request, copies of records required to be kept by this Order.
6. After notice and opportunity for a hearing, coverage of an Individual Discharger or participant of a Discharger Group under this Order may be terminated or modified for cause by the Executive Officer, including but not limited to the following:
 - a. Violation of any term or condition contained in this Order,
 - b. Obtaining this Order by misrepresentation or failure to disclose all relevant facts, or
 - c. A change in any condition that requires either a temporary or permanent reduction or elimination of the authorized discharge.
7. The filing of a request by the discharger for an Order modification, revocation and issuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any condition of this Order.
8. This Order does not convey any property rights of any sort or any exclusive privileges. The requirements prescribed herein do not authorize the commission of any act causing injury to persons or property, do not protect the discharger from liability under Federal, State or local laws, nor do they create a vested right for the discharger to continue the waste discharge (Water Code section 13263(g)).

F. Specific Provisions

Specific provisions shall apply to dischargers identified as Typical in this Order.

1. Individual Dischargers and Discharger Groups shall submit the results of monitoring to the Regional Board every year in accordance with the operation and maintenance requirements included in the Monitoring and Reporting Programs, Nos. CI-8835 and CI-8836. If the monitoring indicates an exceedance of a benchmark then the Individual Discharger or Discharger Group shall submit a WQMP.
2. It is anticipated that water quality objectives can be attained in the discharge from all irrigated lands through the use of management practices. Information to assist growers in modifying discharge quality will be made available through educational seminars offered to applicants for the Conditional Waiver. A minimum of 8 hours attendance and documentation of attendance at an educational venue providing information on the management of pesticides, fertilizers, sediment and Constituents

T

E

N

T

A

T

I

V

E

of Concern (COCs) is required for participation in the Conditional Waiver. Collaboration on management remedies and the distribution of information on the success of those remedies is encouraged. The costs for dischargers to comply with the protection of water quality through management practices were estimated and sources of funding to offset those costs were identified.

G. Water Quality Benchmarks

1. Receiving water, for the purpose of this Order, shall be defined as a water of the State that receives discharges from irrigated lands. "Benchmark" means a requirement established by the Regional Board Basin Plan (including discharge prohibitions and applicable narrative or numeric water quality objectives), criteria established by the United States Environmental Protection Agency (including the California Toxics Rule and National Toxics Rule) to interpret or implement narrative water quality objectives, and load allocations established pursuant to the total maximum daily load (TMDL) program (whether established in the Basin Plan or other lawful means). Common benchmarks for discharges from irrigated lands are identified in Appendices 1, 2, and 3 of this Order. The Discharger shall develop and submit a Water Quality Management Plan (WQMP) for the Executive Officer's approval if the monitoring results exceed a benchmark. In order to determine if the Individual Discharger or Discharger Group is causing the exceedance of a benchmark, the Individual Discharger or Discharger Group may submit for consideration information and/or data regarding the quality of water delivered to the agricultural users to determine if a WQMP is required. The number, location and construction details, if applicable, of all sampling locations are subject to approval of the Executive Officer.
2. Receiving water shall not contain oils, greases, waxes, or other materials in concentrations that result in a visible film or coating on the surface of the water or on objects in the water, that cause nuisance, or that otherwise adversely affect beneficial uses.
3. Discharges from irrigated lands shall not result in concentrations of salts, nutrients, or organic pollutants being present in the receiving water at levels that would impact the designated beneficial uses of the surface water or groundwater.
4. The wastes discharged shall not produce concentrations of toxic substances in the receiving water that are toxic to or cause detrimental physiological responses in human, animal, or aquatic life. If the chronic toxicity in receiving water exceeds 1.0 TU_c, the Discharger shall implement additional toxicity testing for the next two consecutive months. If the toxicity exceedances persist, the Discharger shall conduct a toxicity identification evaluation (TIE). The TIE shall be conducted in accordance with U.S. EPA protocols or other standard procedures approved by the Executive Officer to identify the sources of toxicity. Once the cause of toxicity is identified, the Discharger shall implement measures to reduce toxicity.

T
E
N
T
A
T
I
V
E

5. There shall be no individual pesticide or combination of pesticides present in the discharge in the concentrations that adversely affect beneficial uses. Receiving water designated for use as domestic or municipal supply (MUN) shall not contain concentrations of pesticide in excess of the limiting concentrations specified in Table 6444-A of Section 6444 (Organic Chemicals) of Title 22 of the California Code of Regulations (Appendix 2)
6. Discharges from irrigated lands that result in exceedance of a benchmark shall be subject to a WQMP as required by this Order.

H. Monitoring and Reporting Requirements

A monitoring program shall be required for all discharges as identified in MRPs, CI-8835 and CI-8836, and as summarized below.

1. A monitoring program shall be established to determine if discharges from irrigated lands have impacted or are impacting surface water quality. The program will include receiving water monitoring program approved by the Executive Officer for Discharger Groups or Individual Dischargers.
2. Low-Risk dischargers shall complete the monitoring program during the first and third years after issuance of the NOA to confirm compliance with benchmarks. Typical dischargers will complete the monitoring program annually for the duration of this Conditional Waiver.
3. Upon receipt of notification of applicability under this Order, Individual Dischargers and Discharger Groups shall implement the monitoring plan submitted with the NOI and approved by the Executive Officer in accordance with the requirements of the MRP.
4. The Executive Officer may revise the Monitoring and Reporting plan based on site-specific conditions for an Individual Discharger or Discharger Group.
5. If monitoring data indicate exceedances of applicable benchmarks, the Individual Discharger or Discharger Group shall submit, within six months after submittal of the monitoring report, a WQMP. The WQMP is designed to (i) assess the impacts of waste discharges from irrigated lands to surface waters through source identification; (ii) determine the degree of implementation of management practices to reduce discharge of specific wastes that impact water quality; (iii) determine the effectiveness of management practices and strategies to reduce discharges of waste that impact water quality; (iv) determine concentration and load of waste in these discharges to surface waters; and (v) evaluate compliance with existing narrative and numeric water quality objectives to determine if additional implementation of management practices are

T

E

N

T

A

T

I

V

E

necessary to improve and/or protect water quality, and (vi) construct or implement management practices to reduce pollutant loading to the waters of the State.

6. In order to address high priority water quality problems, the Executive Officer may require additional monitoring.

The WQMP should contain the elements described below that apply to the problem:

- a. Pesticide Use Evaluation

If pesticide concentrations exceed a benchmark, then the discharger must complete an assessment of the most significant factors influencing the amount of pesticides in surface waters, including the timing of pesticide applications, the application rates, the amounts of pesticide applied, and the points of application (all of these factors can be referred to as "use pattern"). This information can be found in the pesticide use reports submitted by Individual Dischargers and participants of Discharger Groups to the County Agricultural Commissioners and the Department of Pesticide Regulations. Changes in pesticide concentrations at specific monitoring sites need to be compared to pesticide use patterns for land areas upstream of the monitoring sites. By comparing these changes, a discharger may discover how a change in pesticide use patterns could impact water quality. Changing pesticide use patterns is a management practice and may be included in a WQMP, if applicable.

- b. Management Practice Effectiveness and Implementation Tracking

If a benchmark is exceeded, Individual Dischargers or Discharger Groups must compile additional information on the type of management practices that are being used, the degree to which they are being implemented on the property or in the Discharger Group area, and how effective the practices are in protecting waters of the State. Data should be collected in several broad areas; 1) fertilizer and pesticide application and post-application practices; 2) management practices to address other wastes (salt, sediment, nitrogen, etc.), and 3) operational practices. This information may be used to evaluate the effectiveness of management practices on reducing loading of constituents of concern. If more effective management practices are available and practicable, a time-specific proposal to change management practices should be described. The predicted effects on discharge quality should be characterized in sufficient detail to provide confidence that the water quality objectives will be attained in a timely manner upon implementation of the management practice(s).

7. If monitoring data indicate continued compliance with benchmarks, the Executive Officer is hereby authorized to use his or her discretion to reduce the required frequency of monitoring for the Individual Discharger or Discharger Group, or to reassign a risk level to the discharge that reflects the results of the monitoring data. The

T
E
N
T
A
T
I
V
E

monitoring data used to make this determination shall include, at a minimum, dry and wet season monitoring data for one year. Once a determination is made, the Executive Officer shall notify the Individual Discharger or Discharger Group of the revised Monitoring and Reporting program, if appropriate.

I. Compliance and Enforcement

1. Individual Dischargers and participants of a Discharger Group are the responsible parties for meeting the conditions of this Waiver. Failure by an Individual Discharger or participants of a Discharger Group to maintain compliance with the Conditional Waiver may result in enforcement actions including imposition of civil liability under Water Code 13268, and/or withdrawal of the conditional waiver and issuance of waste discharge requirements by the Regional Board (Water Code sections 13261, 13263, 13265, 13268, 13300, 13301, 13304, 13340, 13350).
2. Under the terms of the Conditional Waiver, both owners and operators of irrigated lands have responsibility for compliance with the conditions of the waiver. Many management practices will be operational in nature and under the direct control of the operator, while structural practices which remain in place through changes in leaseholders will more likely be the responsibility of the landowner. In the event that the Regional Board undertakes enforcement action, the owner and the operator may be held accountable. Owners and operators may consider delineating these responsibilities in lease agreements; however both the owner and operator will retain full legal responsibility for complying with all provisions of the applicable waiver.
3. Although the Regional Board expects water quality improvements during the term of this waiver, the Regional Board recognizes that water quality objectives may not be completely attained in all waters of State in the Los Angeles Region within the term of this Order. However, the conditions of the Waiver will require actions that will lead to achieving water quality objectives. To satisfy the conditions of the Waiver, the discharger must submit technical reports, conduct required monitoring programs, implement management practices, evaluate the effectiveness of management practices, refine management practices to improve their effectiveness as necessary, protect against pollution and nuisance, and protect the waters of the State.
4. If an Individual Discharger or participant of a Discharger Group fails to meet the requirements and conditions of this Waiver, the Executive Officer may terminate the Waiver and issue Waste Discharge Requirements for that Discharger. Prior to issuance of Waste Discharge Requirements, the Discharger may ask the Regional Board to consider extenuating circumstances.

T
E
N
T
A
T
I
V
E

5. This Order and Conditional Waiver shall become effective on [Insert Date] and expire on [Insert Date], except for enforcement purposes, unless rescinded, renewed, or extended by the Regional Board.
6. Regional Board staff shall provide an annual report, which will be made available to the public, to the Regional Board regarding the effectiveness of this Conditional Waiver for Irrigated Lands. The Regional Board may recommend revisions of the Conditional Waiver.
7. The Regional Board hereby approves the Initial Study prepared in contemplation of this Order and adopts a mitigated negative declaration, finding that although a waiver of waste discharge requirements for irrigated lands could have a significant effect on the environment, the conditions specified in the Order mean there will not be a significant adverse effect on the environment. The Executive Officer is directed to complete any additional CEQA documentation including a notice of determination.

I, Jonathan S. Bishop, Executive Officer, do hereby certify that the foregoing is a full, true and correct copy of an Order adopted by the California Regional Water Quality Control Board, Los Angeles Region, on [Insert Date].

Jonathan S. Bishop
Executive Officer

T
E
N
T
A
T
I
V
E